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HUMAN RIGHTS QUESTIONS

Letter dated 28 September 1993 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

We have received document ST/SGB/Organization, dated 21 July 1993, distributed by the Secretariat and entitled "A description of the functions and organization of the Centre for Human Rights", which requires some comments and observations.

It should be recalled that on the occasion of the World Conference on Human Rights, held at Vienna in June 1993, during one of the tensest moments of the negotiations concerning the draft Final Declaration, the Cuban delegation participating in the Drafting Committee publicly requested the Secretariat to distribute, for the benefit of the discussion and of all delegations, an official document containing the mandate of the Centre for Human Rights.

To our surprise and that of quite a few delegations, the Secretariat stated that such a request could not be granted, on the grounds that the mandate of the Centre for Human Rights consisted of a large quantity of resolutions and decisions, adopted by the competent bodies during the more than 40 years that have elapsed since our Organization was founded, which could not be condensed into a single text.

You can thus understand our surprise at receiving, barely three weeks after the conclusion of the Conference, a document describing the organization and current functions of the Centre and replacing others with the same purpose, the most recent of which was prepared in 1982. This text has elicited a number of concerns, since it attempts to confer on the Centre for Human Rights functions which are not only totally alien to it, but which also conflict with what was agreed on at Vienna; moreover, the document in its entirety reflects a clear intention to assign to the Centre for Human Rights political and decision-making powers which impair the sovereign powers conferred on the General Assembly and the Economic and Social Council by the Charter of the United Nations and the wide variety of resolutions and decisions adopted by the relevant United Nations bodies.

Accordingly, the question arises as to the legislative basis for these new mandates which are to be given to the Centre. In other words, on the basis of which resolutions, declarations or decisions of the General Assembly and the Economic and Social Council - which are, be it said in passing, the only bodies, under the Charter, with special competence in human rights matters - has this document been drafted?

The section devoted to the mandates of the Centre for Human Rights (pp. 1-2) is a particularly graphic illustration of this attempt. We cannot agree, for example, that functions relating to peacemaking, peace-keeping and preventive diplomacy should be assigned to the Centre, when they have been clearly circumscribed by the General Assembly in the context of very clearly applied norms and principles and, moreover, constitute the mandate of bodies whose functions are very far removed from social and humanitarian issues.

Nor is it for the Centre for Human Rights to "follow up on the implementation of human rights instruments and standards", since these are prerogatives and functions of the bodies established under international treaties and agreements on the subject; and still less is it for the Centre to undertake, on its own initiative, fact-finding and investigative missions.

The section entitled "Organizational elements and their functions", which is closely linked to the preceding one, takes the same path. Here, too, we ask: by what mandate or decision does it fall to the Director of the Centre to develop the modalities for early-warning action, thus taking on what are, at best, the prerogatives of the Security Council?

Once again, it must be emphasized that my Government is most firmly of the view that, under the Charter of the United Nations, the Security Council has no role whatsoever in the humanitarian sphere. What is more, the Charter precludes the Council from dealing with such issues, defining its functions and powers clearly and restrictively in Article 24, paragraphs 1 and 2.

The paragraph of the above-mentioned section relating to the Special Procedures Branch gives this unit powers to organize and even prepare what are called "good offices and humanitarian interventions". Without entering into a substantive debate as to the so-called legality of this new modality of intervention, my Government has no choice but to reject such powers emphatically, believing, furthermore, that they exceed the role and specific functions of this Branch.

These are some of my Government's more general concerns with regard to document ST/SGB/Organization; they warrant a more thorough discussion, which we shall propose at the appropriate time. My Government would therefore be grateful if you would have this note circulated as an official document of the General Assembly under agenda item 114.

(Signed) Fernando RAMIREZ DE ESTEÑOZ
Permanent Representative of
Cuba to the United Nations